

The Leesburg Planning Commission met on Thursday, April 15, 2004, in the BP Amoco Room, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, David Fuller, William Donnelly, Aref Etemadi, Nagi Elsewaissi, Paul Gauthier and Linda DeFranco.

CALL TO ORDER

The meeting was called to order at 7:00pm by Chairman Vaughan.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Chairman Vaughan
Commissioner Bangert
Commissioner Barnes
Commissioner Dubé
Commissioner Hoovler
Commissioner Kennedy
Mayor Umstattd

Absent: Vice Chairman Werner

Prior to the beginning of the meeting, Chairman Vaughan recognized Robert Dubé and thanked him for his service to the Planning Commission. Mr. Dubé is leaving the area to accept a position in Florida. Fellow Commissioners also thanked Mr. Dubé and wished him well. Chairman Vaughan presented him with a commemorative picture of the Town Office Building on behalf of the Planning Commission.

ADOPTION OF THE AGENDA

Commissioner Bangert moved to adopt the agenda as presented:

Motion: Bangert
Second: Kennedy
Carried: 6-0

ADOPTION OF MINUTES

Commissioner Kennedy moved to adopt the minutes of the March 18, 2004 meeting as submitted:

Motion: Kennedy
Second: Bangert
Carried: 5-0-1

Commissioner Dubé abstained from the vote since he was absent for the March 18 meeting.

PETITIONERS

None

PUBLIC HEARING

2005-2009 Capital Improvements Program (CIP) - Mike Freda - Management/Budget Officer

Mike Freda gave an overview of the 47 projects proposed in the CIP. Expenditures totaling \$121,724.714 were outlined and include such projects as the Route 15 widening, Battlefield Parkway, West Market Street drainage and sidewalk, Town Branch and Tuscarora Creek floodplain work, Fort Evans sidewalk and drainage, Country Club stormdrain improvements, WPCF expansion under Utilities, Airport improvements. Some of the past projects included Catoctin Circle Trail, Phase II of the S. King Street Trail, Isaac Walton Park, etc. He pointed out that the projects were shifting emphasis to drainage. The utilities project will be funded from availability fees and the airport improvements will be funded by the Virginia Department of Aviation, FAA and the Town.

He emphasized that the Planning Department had made detailed comments and recommendations for the CIP. He recommended that Planning Commission pass this CIP on to the Council to allow them to pass it on to the project manager.

Chairman Vaughan asked about water in basements. Nagi Elsewaissi commented that this can be a result of runoff or rising water tables. The houses that were put on the list were built in floodplain areas prior to FEMA standards. Chairman Vaughan described the stormwater management system in the Rosemeade Drive area and spoke about how the system changes direction if the drains become clogged, causing major street flooding. Paul Gauthier spoke on system design. He emphasized that most systems are designed for 10-year storms with inlets designed for 2-year storms. In the case of Hurricane Isabel, the area had two major storms in one week that equaled 100-year storms.

Chairman Vaughan asked how they planned to control other residents who were not on the listed area from asking for assistance during major flooding. Nagi Elsewaissi explained that he had set up a ranking system. He went on to say that of course there might be unreported problems, but most of the homes targeted are in old neighborhoods with substandard floodplain control.

Commissioner Kennedy asked if the standards were addressed in the Design and Construction Manual. Mr. Gauthier responded that yes, they were. There was some further discussion on storm intensity, design of holding ponds to alleviate some of the Tuscarora Creek flooding and prior major storms.

The comments by Planning and Zoning will be used to implement the town plan by allowing for comments on such things as road widening, transportation issues, bicycle lanes, tree cover, etc. It will also allow for the actual design and cost impacts with the Town Plan in perspective.

Commissioner Werner sent comments via email that supported a zero net loss of trees, a pedestrian refuge island for crossing wide streets and using the “countdown” version of pedestrian crossing signal.

Mayor Umstattd asked if we replaced trees that were taken out as part of the CIP. Mr. Elsewaissi responded that trees are replaced as allowed, if they cannot be put back in the same spot, they are put in an area as close to the spot as possible.

There were no speakers for the Public Hearing, putting the recommendation of the planning Commission into the 10-day review period. Commissioner Bangert stated that she needs this time period to further review some of the points. She also asked how the \$4 million bequeathed funds to Ida Lee were going to be spent.

Commissioner Kennedy asked about the expenditures at Balls Bluff and whether there would be grant applications. He thought it would be beneficial to have a grant writer position on town staff. Mike Freda responded that over all of the years, the town has always applied for their own grants. There was some further discussion on the use of the bequeathed funds.

Commissioner Bangert asked about the \$50K that was shown as a line item in the 2008 budget for Battlefield Parkway. Nagi Elsewaissi explained that this is how fees are paid and how the payment schedule impacts the construction schedule. He went on to say that there were still several layers of review but that the aerial survey had been done and they would be working with VDOT to stake out the road.

Commissioner Bangert asked about the Tuscarora Creek project at Harrison Street. Mr. Elsewaissi said that the houses on Shenandoah Street were built in floodplain – the project is designed to deepen the creek in some locations and sanitary sewers will also be dropped down somewhat.

STAFF AND COMMITTEE REPORTS

Streamlining Proposal – Susan Swift, Planning, Zoning & Development Director

Susan Swift referred to her August proposal on Streamlining which set out some of the points that Planning Commission was asked to consider.

Eliminate the Planning Commission review of By Right Uses. A By Right use allows for minimum requirements to be met, asking for additional proffers by the Planning Commission could cause some legal problems. If the town applies a higher quality

standard to all applications, it could eliminate the guesswork by applicants on whether applications will “pass”.

Chairperson Vaughan said that the Leesburg Planning Commission is the only Commission of those jurisdictions in the area that reviews the By Right site plan.

William Donnelly, Town Attorney, strongly supports the recommendation for several reasons including the fact that most localities have eliminated Planning Commission review, since most site plans are commercial, we need to be sensitive to being business friendly, it will lighten the load of the Planning and Engineering departments since they will not have to prepare staff reports for the meetings and it will give the Planning Commission more time to focus on comprehensive planning, and special exceptions. Also, again, the review of these is a ministerial function as opposed to a discretionary function and asking for too much could open up legal battles. On the other hand staff could obtain just as much because there is no publicity or pressure put on the developers. They receive informal feedback on schematics and don't have to do a formal site plan until necessary – it gives them more opportunity to fine tune. It also allows the citizens to come in and speak with staff, allowing them to possibly trigger requests.

Commissioner Barnes had no comment on the proposal.

Commissioner Kennedy felt that they have been able to add proffers subtly, especially things such as berms and trees – he felt that the code should be changed to strengthen the case for the town.

Mr. Donnelly said that the new Zoning Ordinance was an improvement over the old one, but could always be improved more. The state code is specific and the town can't change that. The Dillon Rule is very strong in Virginia as opposed to home rule which limits the town's authority.

There was some discussion on what could be done to strengthen the requests made of applicants. Perhaps including some of the improvements into the new town plan could help. It was suggested that the Planning Commission review and code restructuring be done simultaneously or there could be several large applications looming which could be approved without the new guidelines. Susan indicated that the Code would be rewritten prior to the Town Plan due to the growth pressures in the town.

Chairman Vaughan asked that the noise abatement methods, berms, etc. be added to expedited Code review. Susan Swift responded that this was reactive to a particular piece of property – this can only be an option, it can't be dictated. Mr. Vaughan said that things that used to be nurtured should be added to the code. Commissioner Hoovler agreed saying this reduces risk. He went on to state that the Commission should forego the review of By Right site plans and concentrate on Comprehensive Site Plans.

Mr. Donnelly offered to redraft the landscaping and buffer sections of the Code so they can be included in the upcoming “emergency” amendments.

Commissioner Hoovler said that we should work with developers and neighbors to work things out in the best interest of developer, neighbor and town.

Commissioner Hoovler made the motion to eliminate the first submission briefing to the Planning Commission and also to eliminate the Planning Commission review of site plans.

Commissioner Kennedy moved to table the motion.

Aye – Kennedy

Nay – Barnes, Vaughan, Bangert, Hoovler , Dubé

Commissioner Hoovler moved to recommend to Town Council the elimination of the first submission briefing to the Planning Commission, and to further eliminate the Planning Commission review of Site Plans.

Motion: Hoovler

Second: Bangert

Carried: 5-1

Commissioner Kennedy said that this might work after legislation was taken to tighten up the code. Staff can demand additional proffers based on a stronger code. They need to make sure that there is no gap in coverage.

Mayor Umstattd asked if this was the appropriate step to propose stronger language at a worksession. Mr. Donnelly responded that yes, this could work. Essentially he recommended that Town Council consider stricter language in the Code.

Susan Swift said this will be done. A resolution to amend the Code with the stronger language will be prepared. With regard to rezonings and special exceptions , a recommendation was made to modify how previews are done. The suggestion is to have them put near the beginning of the planning commission meetings. This would require a change in the bylaws and an internal policy motion for clarification. Also, there would be no staff presentation prior to the applicant's. The purpose of this is to put the public and the applicant on even footing and to speed the process up.

Secondly, the ten day waiting period has an unofficial policy to vote on an application if there is not objection by staff on the same evening. Commissioner Bangert felt this cuts out citizens that can't attend the meeting. Commissioner Hoovler said that they needed to make sure that TV watchers don't miss the opportunity to comment.

Commissioner Vaughan stated that the ten day wait for the vote is in place unless it is overridden. They can always reverse the decision to be flexible. If the ten day waiting period needs to be extended, it can be done.

The third item set the continuation of a case won't be reheard until one month later. Putting the continuation on to the next meeting does not allow staff to prepare the necessary report within the timeframe.

Changing the order of the presentation so that the applicant gives their presentation first on their proposal. Staff would then provide comments based on information in the Town Code and zoning Ordinance.

Mr. Donnelly said that staff always goes first in almost every jurisdiction. Susan Swift said that the, staff should not be presenting the applicant's case. The public should hear the presentation by the applicant with staff following only those comments precipitated by any discrepancies in Codes.

With regard to the expedited review process, criteria is in place for this. Commissioner Hoover asked if this had been discussed at the Council level? Mayor Umstattd replied that it had to some extent.

With regard to other efforts, Commissioner Bangert asked if the entire Commission could receive a heads up on controversial applications, not just the Chairman. Also, if a project is submitted and carried over, the paperwork needn't be recopied and resent to the Commission. They should hold the originally submitted reports.

COMPREHENSIVE PLANNING

Town Plan Status Report – David P. Fuller, Chief, Comprehensive Planning

Mr. Fuller presented the updated schedule for the Town Plan as follows: June – Themes and Draft Goals; July – Scenario Methodology (how we'll get comments from the public); September – Drafts of "background" sections (sent to all commissions and available to the public); October – Public Review of Scenarios (guidance from the public); December, January and February – Work Sessions 1, 2, & 3 to Planning Commission; March – Planning Commission Public Hearing; April – Work Sessions and presentation to Town Council; May – Town Council public hearings.

Mr. Hoover asked whether this was going to the other Commissions also. Mr. Fuller responded that yes, it was.

Commissioner Kennedy expressed concern over the number of meetings and how they are scheduled in the timeframe.

STAFF AND COMMITTEE REPORTS

Mayor Umstattd reported that the historic district overlay of the Paxton Site was going to be presented to the Board of Architectural Review on April 19 for review and recommendation. The proposal will allow for a one year cooling off period, however the

trustees think this will cut into potential profits. Rezoning can potentially go from R-1 to R-4 and has the neighbors concerned.

There were no other staff/committee reports.

OLD BUSINESS

The tour, scheduled for April 23rd, of Lakelands, Kentland and Clarendon is still planned as scheduled. So far Commissioners Kennedy, Hoovler and Vaughan will be attending.

Further, there was discussion on the Commission retreat. It was decided that it should be done in one day rather than multiple days in shorter time blocks. It was also recommended that it be held in July.

Susan Swift commented that the plans for Catocin Square have come back in and that the design on the new plans incorporated Leesburg elements.

Paul Gauthier went over the schedule for Battlefield Parkway explaining the following: Calendar year 2008 = Fiscal year 2009. The final phase will occur in Calendar year 2009 = Fiscal year 2010. There are still some drainage issues that are being worked out.

NEW BUSINESS

None

ADJOURNMENT

The motion was made and seconded to adjourn the meeting at 10:15pm

Prepared By:

Approved BY:

Linda DeFranco, Commission Clerk

Clifton Vaughan, Chairman